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# **JUVENILE JUSTICE COMMITTEE**

## **MEETING PACKET**

**Tuesday, March 28, 2006  
10:15 AM – 12:00 PM  
214 Capitol**

# **Revised**



# ***FLORIDA HOUSE OF REPRESENTATIVES***

***Allan G. Bense, Speaker***

## **Juvenile Justice Committee**

**Faye B. Culp**  
Chair

**Mitch Needelman**  
Vice Chair

### **Meeting Agenda Tuesday, March 28, 2006 214 Capitol, 10:15 AM – 12:00 PM**

- I. Opening remarks by Chair Culp**
- II. Roll call**
- III. Consideration of the following bill: HB 535 CS School Safety by Bogdanoff**
- IV. Consideration of the following bill: HB 1457 Youth Custody Officers by Lopez-Cantera**
- V. Closing remarks by Chair Culp**
- VI. Adjournment**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 535 CS                      School Safety  
**SPONSOR(S):** Bogdanoff and others  
**TIED BILLS:**                              **IDEN./SIM. BILLS:** SB 1384

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	6 Y, 3 N, w/CS	Beagle	Mizereck
2) Juvenile Justice Committee		White	White
3) Education Appropriations Committee			
4) Education Council			
5) _____			

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### SUMMARY ANALYSIS

Current Florida law requires school districts to develop student safety and discipline policies. Within the requirements prescribed by law, school districts have considerable discretion as to the contents of these policies. There is no statewide mandate that school districts adopt policies that explicitly prohibit bullying and harassment.

House Bill 535 prohibits bullying and harassment of students in Florida schools, and requires school districts to adopt policies for enforcing this prohibition. The bill defines bullying and harassment, and sets forth specific minimum requirements for school district policies.

The bill has a minimal fiscal impact. See FISCAL COMMENTS.

The bill takes effect on upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide Limited Government--** The bill requires local school districts to adopt policies prohibiting bullying and harassment.

**Promote Personal Responsibility--** The bill requires local school districts to establish punishments and interventions for dealing with perpetrators of bullying or harassment.

**Safeguard Individual Liberty--** The bill reduces the likelihood that bullying and harassment will interfere with student's learning and social development.

**Empower Families--** The bill requires school authorities to report all actions taken to protect a victim of bullying and harassment to the victim's parents.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation:

##### Student Discipline and School Safety

Florida law requires district school boards to establish student safety and discipline policies governing student conduct on school grounds, at school sponsored activities, and on school buses.<sup>1</sup> Subject to certain requirements, school districts retain considerable flexibility in formulating student discipline policies. Policies must address several issues including:

- A code of student conduct that clearly explains the rights and responsibilities of students regarding respect for persons and property.
- Prohibition against student possession of a firearm or weapon on school grounds or at school sponsored activities and notice to students that violation of this provision may result in expulsion and referral to a criminal or juvenile justice facility.
- Notice that student acts of prohibited behavior at school, on a school bus, at a school bus stop, sexual harassment, and violence against any school district employee are subject to disciplinary action.
- Policies for assigning a violent or disruptive student to an alternative program.
- Consistent policies and procedures for dealing with prohibited acts, including imposition of criminal penalties.

Additionally, Florida law<sup>2</sup> and State Board of Education Rule (SBE)<sup>3</sup> require district school boards to adopt a zero tolerance policy for violent crime, victimization, and substance abuse. District school boards must ensure that students found to have committed certain offenses receive the most severe penalties available under district school board policy.<sup>4</sup> Likewise, district school boards are authorized to attach more severe consequences to disciplinary violations motivated by hostility towards a victim's gender, race, religion, color, sexual orientation, ethnicity, ancestry, national origin, political beliefs, marital status, age, social and family background, linguistic preference, or disability.<sup>5</sup> School officials are required to protect students who are victimized by violent crime, including notifying a victim's

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<sup>1</sup> Section 1006.07, F.S.

<sup>2</sup> Section 1006.13, F.S.

<sup>3</sup> State Board of Education Rule 6A-1.0404.

<sup>4</sup> Id.

<sup>5</sup> Id.

parents that an incident has occurred and of the victim's right to press charges, transferring the perpetrator to another school in the district, and banning the perpetrator from riding the same school bus as the victim.<sup>6</sup>

Florida law assigns specific duties relating to the enforcement of student discipline to certain school district personnel. These duties include:

- District school superintendents are required to recommend student safety and discipline policies to the district school board.<sup>7</sup>
- School principals must collaborate with teachers to establish and enforce classroom rules for student conduct and procedures for disciplinary referrals.<sup>8</sup>
- School principals must comply with certain requirements for reporting incidents of student misconduct.<sup>9</sup> The School Environmental Safety Incident Reporting System (SESIR)<sup>10</sup> requires schools to report serious safety incidents involving students that occur on school grounds, on school transportation, or off-campus at school-sponsored events. School-level data is compiled at the district-level and reported to the Department of Education (DOE).
- School bus drivers are responsible for maintaining order and security on district buses.<sup>11</sup>

### Bullying and Harassment

The U.S. Department of Education (U.S. DOE) reports that 7% of students aged 12-18 reported being bullied at school in 2003.<sup>12</sup> State anti-bullying legislation has gained in prevalence since a rash of highly publicized school shootings in the late 1990s.<sup>13</sup> Currently, several states have enacted anti-bullying legislation. These states include Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Indiana, Louisiana, Maine, Minnesota, New Hampshire, New Jersey, New York, Oklahoma, Oregon, Rhode Island, Tennessee, Texas, Vermont, Virginia, Washington and West Virginia.<sup>14</sup>

Current Florida law does not require school districts to implement a district-wide anti-bullying and harassment policy. According to the DOE, 33 Florida school districts have implemented bullying prevention programs.<sup>15</sup>

- Aggression Replacement Training (ART) – Hernando;
- Aggressors, Victims, Bystanders - Brevard, Collier, Columbia, DeSoto, Dixie, Escambia, FAU Lab School, Flagler, Glades, Lafayette, Levy, Manatee, Okaloosa, Palm Beach, Pinellas, Santa Rosa, Sarasota, St. Lucie, Union, and Volusia;
- Bullying Prevention (Olweus) - FAU Lab School, Orange, Pasco, Pinellas, Sarasota, Seminole, and Sumter;
- Bully-Proofing Your School – Brevard and Volusia;
- Bullying Safe – Lee;
- Foundations: Creating Safe and Civil Schools – Clay and Duval;
- PATHS – Okaloosa;

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6 Section 1006.13(1)(b), (5), F.S.

7 Section 1006.08, F.S.

8 Section 1006.09, F.S.

9 Section 1001.54(3), F.S. and s. 1006.09(6), F.S.

10 Florida Department of Education, *The School Environmental Safety Incident Reporting System (SESIR) District and Statewide Reports*, available at <http://www.firn.edu/doe/besss/sesir.htm>.

11 Section 1006.10, F.S.

12 The U.S. Department of Education, National Center for Education Statistics, *Indicators of School Crime and Safety: 2005*, NCES 2006-001, November 2005, available at <http://nces.ed.gov/programs/crimeindicators/Indicators.asp?PubPageNumber=12>.

13 Education Commission of the States, *State Anti-Bullying Statutes*, by Jennifer Dounay, April 2005, available at <http://www.ecs.org/clearinghouse/60/41/6041.htm>.

14 Education Commission of the States, *State Anti-Bullying Statutes*, by Jennifer Dounay, April 2005, available at <http://www.ecs.org/clearinghouse/60/41/6041.htm> and Education Commission of the States, *Recent State Policies and Activities Update: Student Discipline: Bullying Statutes*, available at <http://www.ecs.org/ecs/ecscat.nsf/WebTopicView?OpenView&RestrictToCategory=Safety/Student+Discipline--Bullying/Conflict+Resolution>.

15 Florida Department of Education, *Bullying Programs in Florida Districts* available at [http://www.firn.edu/doe/besss/bull\\_fl.html](http://www.firn.edu/doe/besss/bull_fl.html).

- PeaceBuilders – Franklin and Gulf;
- Positive Action – Charlotte and Leon;
- Project ACHIEVE – Charlotte;
- Safe Schools Ambassadors – Seminole;
- Success in Stages: Build Respect, Stop Bullying – Union; and
- TRUST - Miami-Dade.

#### Safe Schools Funding

Safe schools funding is a component of the Florida Education Finance Program<sup>16</sup> and is allocated by the legislature as proviso language in the General Appropriations Act.<sup>17</sup> The Legislature appropriated \$75,350,000 in safe schools funds for the 2005-2006 school year. Safe schools funds are allocated as follows:

- A basic amount of \$50,000 is distributed to each Florida school district or lab school.
- Two-thirds of the remaining balance is allocated based on the latest official Florida Crime Index as provided by the Florida Department of Law Enforcement.
- One-third is allocated based on each district's share of the state's total unweighted student enrollment.

School districts may use safe schools funds to implement after school programs, conflict resolution strategies, alternative school programs for adjudicated youth, and other improvements to make the school a safe place to learn. School districts have flexibility to determine how much of its total allocation to use for each authorized Safe Schools activity.

#### Effect of Proposed Changes:

##### Prohibition of Bullying and Harassment

House bill 535 prohibits bullying and harassment on school grounds, at school sponsored functions, on school buses, and school district controlled computer equipment and networks. The bill defines "bullying" as systematic or chronic infliction of physical hurt or psychological distress that may involve teasing, social exclusion, threats, intimidation, stalking, physical violence, theft, sexual or racial harassment, public humiliation, or destruction of property. "Harassment" is defined to include threatening, insulting, or dehumanizing gestures, use of a computer, and written, verbal, or physical conduct targeted at a student or school employee that:

- Causes the student or school employee to reasonably fear harm to person or property;
- Substantially interferes with the student's educational performance; or
- Substantially disrupts the orderly operation of the school.

Also falling within the bill's scope are certain acts of retaliation against individuals who report an act of bullying or harassment, acts that incite or coerce others to perpetrate an act of bullying or harassment, accessing or causing others to access another student's computer data or software for bullying and harassment purposes via school operated computers, and other acts having the effect of bullying and harassment.

##### Bullying and Harassment Policies

The bill requires each school district to adopt a policy prohibiting bullying and harassment. The policies must apply evenly to all students and explicitly prohibits a school district from creating special classifications of protected students based on student characteristics. Each school district must involve a variety of stakeholders in devising its bullying and harassment policy. The bill further requires each school district to integrate its bullying and harassment policy into the district's year round school

<sup>16</sup> Section 1011.62(5)(b)3., F.S.

<sup>17</sup> Line Item 73 of the Conference Committee Report on SB 2600, Enrolled Chapter 2005-70, Laws of Florida.

curriculum, discipline policies, and violence prevention efforts. Moreover, the bill provides conditions for immunity from suit for specified individuals who report an incident of bullying or harassment. The bill bars perpetrators who access a computer to bully or harass from raising the location or time of access of the computer as a defense.

Additionally, school district bullying and harassment policies must contain the following components:

- A definition of bullying and harassment and statement that such conduct is prohibited;
- Clearly stated consequences for committing or falsely accusing another of bullying or harassment;
- A procedure for reporting a proscribed act;
- A procedure for investigating whether a reported incident of bullying and harassment is within the scope of the school district's policy. Acts determined to be outside the scope of the school district's policy are to be referred to the appropriate authorities;
- A procedure for providing victim's parents a list of all local agencies where criminal charges may be brought against a perpetrator of bullying or harassment;
- A procedure for referring a victim or perpetrator of bullying or harassment to counseling;
- A procedure including incidents of bullying and harassment in its SESIR;
- A procedure for training students, parents, school volunteers and school staff effective tactics for identifying and addressing incidents of bullying and harassment; and
- A procedure for reporting all measures taken to protect a victim of bullying and harassment to a victim's parents.

The bill requires the DOE to adopt model bullying and harassment policies to assist school districts. The bill also requires each school district to publish its policy in the district's code of student conduct and all employee handbooks. The bill further requires the Commissioner to report to the education committees of the Legislature as to the progress made by districts in implementing the bill's provisions.

The bill makes disbursements of safe schools funding to school districts contingent upon the district's adopting a bullying and harassment policy for the 2007-2008 school year. To receive disbursements of safe schools funding in subsequent school years, school districts must comply with all reporting requirements set forth in the bill. A school district's failure to comply with either of these requirements will result in a withholding of safe schools funding.

#### C. SECTION DIRECTORY:

Section 1: Creates section 1006.147, F.S., prohibiting bullying and harassment in Florida schools; requiring each school district to adopt a policy for preventing and addressing incidents of bullying and harassment.

Section 2: Provides that the bill is effective upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

This bill does not appear to have a fiscal impact on state revenues.

##### 2. Expenditures:

This bill does not appear to have a fiscal impact on state expenditures.



**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

This bill does not appear to have a fiscal impact on local government revenues.

**2. Expenditures:**

This bill does not appear to have a fiscal impact on local government expenditures.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

This bill does not appear to have a direct economic impact on the private sector.

**D. FISCAL COMMENTS:**

School districts that fail to adopt a bullying and harassment policy by the 2007-2008 school year may have their safe schools funding withheld. Subsequent disbursements of safe schools funds may be withheld to school districts that fail to comply with any reporting provisions contained in the bill.

School districts may incur costs in developing bullying and harassment policies, and in providing the required training to students, parents, school volunteers, and school employees.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

This bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

On March 21, 2006, the PreK-12 Committee adopted a strike-all amendment. The bill analysis reflects the bill as amended.

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CHAMBER ACTION

The PreK-12 Committee recommends the following:

**Council/Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to school safety; creating s. 1006.147, F.S.; prohibiting bullying and harassment during education programs and activities, on school buses, or through use of data or computer software accessed through computer systems of certain educational institutions; providing definitions; requiring each school district to adopt a policy prohibiting such bullying and harassment; providing minimum requirements for the contents of the policy; requiring the Department of Education to develop model policies; providing immunity; providing restrictions with respect to defense of an action and application of the section; requiring department approval of a school district's policy and school district compliance with reporting procedures as prerequisites to receipt of safe schools funds; requiring a report on implementation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

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CODING: Words stricken are deletions; words underlined are additions.

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Section 1. Section 1006.147, Florida Statutes, is created to read:

1006.147 Bullying and harassment prohibited.--

(1) Bullying or harassment of any student or school employee is prohibited:

(a) During any education program or activity conducted by a public K-12 educational institution;

(b) During any school-related or school-sponsored program or activity or on a school bus of a public K-12 educational institution; or

(c) Through the use of data or computer software that is accessed through a computer, computer system, or computer network of a public K-12 educational institution.

(2) For purposes of this section:

(a) "Bullying" means systematically and chronically inflicting physical hurt or psychological distress on one or more students and may involve:

1. Teasing;

2. Social exclusion;

3. Threat;

4. Intimidation;

5. Stalking;

6. Physical violence;

7. Theft;

8. Sexual or racial harassment;

9. Public humiliation; or

10. Destruction of property.

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(b) "Harassment" means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal, or physical conduct directed against a student or school employee that:

1. Places a student or school employee in reasonable fear of harm to his or her person or damage to his or her property;

2. Has the effect of substantially interfering with a student's educational performance, opportunities, or benefits;  
or

3. Has the effect of substantially disrupting the orderly operation of a school.

(c) Definitions in s. 815.03 relating to computer crimes and s. 784.048 relating to stalking are applicable to this section.

(d) The terms "bullying" and "harassment" include:

1. Retaliation against a student or school employee by another student or school employee for asserting or alleging an act of bullying or harassment. Reporting an act of bullying or harassment that is not made in good faith is considered retaliation.

2. Perpetuation of conduct listed in paragraph (a) or paragraph (b) by an individual or group with intent to demean, dehumanize, embarrass, or cause physical harm to a student or school employee by:

a. Incitement or coercion;

b. Accessing or knowingly causing or providing access to data or computer software through a computer, computer system,

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79 or computer network within the scope of the district school  
80 system; or

81 c. Acting in a manner that has an effect substantially  
82 similar to the effect of bullying or harassment.

83 (3) By September 1, 2006, each school district shall adopt  
84 a policy prohibiting bullying and harassment on school property,  
85 at a school-related or school-sponsored program or activity, on  
86 a school bus, or through the use of data or computer software  
87 that is accessed through a computer, computer system, or  
88 computer network within the scope of the district school system.  
89 The school district policy shall not establish categories of  
90 students but shall afford all students the same protection  
91 regardless of their status under law. The school district shall  
92 involve students, parents, teachers, administrators, school  
93 staff, school volunteers, community representatives, and local  
94 law enforcement agencies in the process of adopting the policy.  
95 The school district policy must be implemented in a manner that  
96 is ongoing throughout the school year and integrated with a  
97 school's curriculum, a school's discipline policies, and other  
98 violence prevention efforts. The school district policy must  
99 contain, at a minimum, the following components:

100 (a) A statement prohibiting bullying and harassment.

101 (b) A definition of bullying and a definition of  
102 harassment.

103 (c) A description of the type of behavior expected from  
104 each student and school employee.

105 (d) The consequences for a person who commits an act of  
106 bullying or harassment.

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(e) The consequences for a person who is found to have wrongfully and intentionally accused another of an act of bullying or harassment.

(f) A procedure for reporting an act of bullying or harassment, including provisions that permit a person to anonymously report such an act. However, this paragraph does not permit formal disciplinary action to be based solely on an anonymous report.

(g) A procedure for the prompt investigation of a report of bullying or harassment and the persons responsible for the investigation. The investigation of a reported act of bullying or harassment is deemed to be a school-related activity and begins with a report of such an act.

(h) A process to investigate whether a reported act of bullying or harassment is within the scope of the district school system and, if not, a process for referral of such an act to the appropriate jurisdiction.

(i) A procedure for providing immediate notification to the parents of a victim of bullying or harassment of all local agencies where criminal charges may be pursued against the perpetrator.

(j) A procedure to refer victims and perpetrators of bullying or harassment for counseling.

(k) A procedure for including incidents of bullying or harassment in the school's report of safety and discipline data required under s. 1006.09(6). The report must include each incident of bullying or harassment and the resulting consequences, including discipline and referrals. The report

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135 must include in a separate section each reported incident of  
136 bullying or harassment that does not meet the criteria of a  
137 prohibited act under this section with recommendations regarding  
138 such incidents. The Department of Education shall aggregate  
139 information contained in the reports and submit an annual report  
140 to the President of the Senate and the Speaker of the House of  
141 Representatives by January 1.

142 (l) A procedure for providing instruction to students,  
143 parents, teachers, school administrators, counseling staff, and  
144 school volunteers on identifying, preventing, and responding to  
145 bullying or harassment.

146 (m) A procedure for regularly reporting to a victim's  
147 parents the actions taken to protect the victim.

148 (n) A procedure for publicizing the policy, which must  
149 include its publication in the code of student conduct required  
150 under s. 1006.07(2) and in all employee handbooks.

151 (4) To assist school districts in developing policies for  
152 the prevention of bullying and harassment, the Department of  
153 Education shall develop model policies, which must be provided  
154 to school districts no later than July 1, 2006.

155 (5) A school employee, school volunteer, student, or  
156 parent who promptly reports in good faith an act of bullying or  
157 harassment to the appropriate school official designated in the  
158 school district's policy and who makes this report in compliance  
159 with the procedures set forth in the policy is immune from a  
160 cause of action for damages arising out of the reporting itself  
161 or any failure to remedy the reported incident.

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162       (6) (a) The physical location or time of access of a  
163       computer-related incident cannot be raised as a defense in any  
164       disciplinary action or prosecution initiated under this section.

165       (b) This section does not apply to any person who uses  
166       data or computer software that is accessed through a computer,  
167       computer system, or computer network when acting within the  
168       scope of his or her lawful employment or investigating a  
169       violation of this section in accordance with school district  
170       policy.

171       (7) Distribution of safe schools funds to a school  
172       district provided in the 2007-2008 General Appropriations Act is  
173       contingent upon Department of Education approval of the school  
174       district's bullying and harassment policy. Distribution of safe  
175       schools funds provided to a school district in fiscal year 2008-  
176       2009 and thereafter shall be contingent upon the school  
177       district's compliance with all reporting procedures contained in  
178       this section.

179       (8) On or before January of each year, the Commissioner of  
180       Education shall report to the Senate and House of  
181       Representatives committees on education on the implementation of  
182       this section. The report shall include pertinent data such as  
183       incidences of bullying and harassment identified by the school  
184       districts.

185       (9) Nothing in this section shall be construed to abridge  
186       the rights of students or school employees that are protected by  
187       the First Amendment to the Constitution of the United States.

188       Section 2. This act shall take effect upon becoming a law.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1457

Youth Custody Officers

**SPONSOR(S):** Lopez-Cantera

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 1398

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Juvenile Justice Committee</u>	<u></u>	<u>White</u>	<u>White</u>
2) <u>Criminal Justice Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
3) <u>Justice Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

Under current law, a youth custody officer's (YCO's) powers are limited to taking juveniles into custody if the YCO has probable cause to believe that a juvenile has violated conditions of probation, home detention, conditional release, or postcommitment probation, or has failed to appear in court. Thus, if a juvenile commits an offense in the YCO's presence or custody or if a YCO otherwise witnesses any other criminal activity, the YCO must call a law enforcement officer to address the criminal offense.

The bill retains current law's limitations, as discussed above, regarding when a YCO may take a juvenile into custody; however, the bill adds that a YCO, who has taken a juvenile into custody and who has probable cause to believe that the juvenile has committed violations of criminal law, may file charges and gather evidence. Further, the bill provides that YCOs have statewide jurisdiction and are authorized to exercise the same powers as law enforcement officers, including the powers to make arrests, serve court process, and seize contraband and the proceeds of illegal activities. Although the bill is clear regarding when a YCO may take a juvenile into custody, it is not entirely clear as to precisely when or for what purpose a YCO may act as a law enforcement officer. See Drafting Issues or other Comments, *infra*.

The bill also provides that YCOs should, rather than shall as required in current law, notify appropriate local law enforcement agencies of their activities.

The Department of Juvenile Justice states that this bill has no fiscal impact.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide limited government** – The bill expands the authority of youth custody officers (YCOs) employed by the Department of Juvenile Justice (DJJ) by: (a) permitting them to file charges and gather evidence for criminal violations committed by juveniles in the YCO's custody; and (b) stating that YCOs have the full authority and powers of law enforcement officers in this state.

#### B. EFFECT OF PROPOSED CHANGES:

**Youth Custody Officers:** Section 985.2075, F.S., creates the position of youth custody officer (YCO) within the Department of Juvenile Justice (DJJ). Subsection (1) authorizes a YCO to take a juvenile into custody if he or she has probable cause to believe that the juvenile has:

- Violated conditions of probation, home detention, conditional release, or postcommitment probation; or
- Failed to appear in court after receiving proper notice.

These are the **only** circumstances under which a YCO is statutorily authorized to take a juvenile into custody. Thus, if a juvenile commits a misdemeanor or felony offense in the officer's presence, he or she may not take the juvenile into custody for the offense or investigate the offense; instead, the YCO must call a law enforcement officer from the local jurisdiction to take the juvenile into custody and to conduct the investigation.

Under s. 985.2075(2), F.S., a YCO must:

- Meet minimum qualifications for employment or appointment;
- Be certified under ch. 943, F.S., which provides for correctional, correctional probation, and law enforcement officer certifications; and
- Comply with the continued employment requirements under s. 943.135, F.S., which addresses the continued employment of correctional, correctional probation, and law enforcement officers.

According to data provided by the DJJ, there are 16 YCO positions assigned to nine judicial circuits (the 1st, 4th, 6th, 9th, 11th, 13th, 15th, 17th, and 18<sup>th</sup> Judicial Circuits). Three of these positions are not presently filled. During Fiscal Year 2004-05, YCOs apprehended 3,801 juveniles, which resulted in the closure of 4,596 cases.

*Effect of bill:* As discussed above, s. 985.2075, F.S., currently limits a YCO's authority to taking juveniles into custody for probation, home detention, conditional release, or postcommitment probation violations and for failing to appear in court. The bill amends this section to provide that a YCO, who has taken a juvenile into custody for the reasons specified in current law and who has probable cause to believe the juvenile has committed violations of criminal law, may file charges and gather evidence for those criminal law violations.

*Additionally, the bill provides that YCOs:*

- Have statewide jurisdiction.
- The same arrest and other authority provided for law enforcement officers in ch. 901, F.S., including s. 901.15, F.S. Chapter 901, F.S., sets forth Florida's law relating to arrests, including an officer's power to "stop and frisk" a person,<sup>1</sup> break into a building,<sup>2</sup> and conduct searches of

<sup>1</sup> See Section 901.151, F.S. (specifying when an officer may detain a person and search the person for a weapon).

persons.<sup>3</sup> Section 901.15, F.S., authorizes an officer to make arrests without a warrant under specified circumstances. .

- The same law enforcement powers granted to other peace officers, including the authority to make arrests, serve court process, and seize contraband and the proceeds of illegal activities.

Finally, the bill provides that YCOs should, rather than shall, notify appropriate local law enforcement agencies of their activities.

The bill takes effect July 1, 2006.

#### C. SECTION DIRECTORY:

**Section 1.** Amends s. 985.2075, F.S., to expand YCO authority to that of a law enforcement officer and to provide that YCOs should, rather than shall, notify law enforcement agencies of their activities.

**Section 2.** Provides an effective date of July 1, 2006.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None apparent.

2. Expenditures:

The DJJ states that this bill will have no fiscal impact.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may generate an indeterminate cost savings to local law enforcement agencies to the extent that the bill's expansion of YCO powers results in local law enforcement having to address fewer instances of criminal activity.

2. Expenditures:

None apparent.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None apparent.

#### D. FISCAL COMMENTS:

None.

### III. COMMENTS

<sup>2</sup> See Section 901.19, F.S. (specifying when an officer may use necessary and reasonable force to enter a building or property to make an arrest).

<sup>3</sup> See Section 901.21, F.S. (specifying requirements applicable to the search of an arrested person and surrounding area); and Section 901.211, F.S. (specifying requirements applicable to strip searches of arrested persons).

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

At lines 30-32, the bill authorizes YCOs to file criminal charges and gather evidence where the YCO has probable cause to believe that the juvenile, who the YCO took into custody for supervision violations or failure to appear, has committed violations of criminal law. The bill also provides at lines 33-40 that YCOs have statewide jurisdiction and the same powers as law enforcement and peace officers, including the powers to make arrests, carry firearms, serve court process, and seize contraband and the proceeds of illegal activities. If the Legislature intends to limit a YCO's ability to act as a law enforcement officer to a certain time frame and/or purpose, then it may be desirable to amend the bill to clearly state this time frame and purpose, e.g., the bill could state that the YCO's authority to act as a law enforcement officer is limited to the period of time when a youth is properly in the YCO's custody.

At lines 42-43, the bill contains current law that requires YCOs to be certified under ch. 943, F.S. Certifications under ch. 943, F.S., include not only law enforcement officers, but also correctional and correctional probation officers. If it is the Legislature's intent that YCOs be certified as law enforcement officers under ch. 943, F.S., it may be desirable to amend the bill to state this requirement.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

HB 1457

2006

A bill to be entitled

An act relating to youth custody officers; amending s. 985.2075, F.S.; authorizing a youth custody officer to take a youth into custody if the officer has probable cause to believe that the youth has escaped from a facility operated by or under contract with the Department of Juvenile Justice or has absconded from the supervision of the department; authorizing the youth custody officer to file certain criminal charges and gather evidence for court; revising a provision concerning an officer informing local law enforcement agencies of his or her activities; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 985.2075, Florida Statutes, is amended to read:

985.2075 Youth custody officer.--

(1) There is created within the department ~~of Juvenile Justice~~ the position of youth custody officer. The primary duties of each youth custody officer shall be to take youth into custody if the officer has probable cause to believe that the youth has violated the conditions of probation, home detention, conditional release, or postcommitment probation, or has failed to appear in court after being properly noticed. The authority of the youth custody officer to take youth into custody is specifically limited to this purpose.

HB 1457

2006

(2) A youth custody officer who, while in the performance of his or her duties, takes a youth into custody for any reason specified in subsection (1) and has probable cause to believe that the youth has committed violations of criminal law, may file the appropriate criminal charges and gather evidence for prosecution. Each youth custody officer is subject to and shall have the same arrest and other authority provided for law enforcement officers generally in chapter 901, including s. 901.15, and shall have statewide jurisdiction. Such officers have full law enforcement powers granted to other peace officers of this state, including the authority to make arrests, carry firearms, serve court process, and seize contraband and the proceeds of illegal activities.

(3)-(2) A youth custody officer must meet the minimum qualifications for employment or appointment, be certified under chapter 943, and comply with the requirements for continued employment required by s. 943.135. The department ~~of Juvenile Justice~~ must comply with the responsibilities provided for an employing agency under s. 943.133 for each youth custody officer.

(4)-(3) A youth custody officer should ~~shall~~ inform appropriate local law enforcement agencies of his or her activities under this section.

Section 2. This act shall take effect July 1, 2006.



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## **JUVENILE JUSTICE COMMITTEE**

**Tuesday, March 28, 2006  
10:15 AM -12:00 PM  
214 Capitol**

## **AMENDMENT PACKET**



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. 1457

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

Council/Committee hearing bill: Juvenile Justice Committee  
Representative Lopez-Cantera offered the following:

**Amendment (with title amendment)**

Remove line(s) 27-48 and insert:  
specifically limited to these purposes ~~this purpose~~.

(2) While in the performance of his or her duties, a youth  
custody officer:

(a) May file criminal charges and gather evidence for the  
prosecution where the officer has probable cause to believe that  
a youth, who he or she has taken into custody pursuant to  
subsection (1), has committed violations of criminal law.

(b) Has statewide jurisdiction.

(c) Has the same authority and powers granted to law  
enforcement officers by law, including the authority to make  
arrests under chapter 901, carry firearms, serve court process,  
and seize contraband and the proceeds of illegal activities,  
except that a youth custody officer may not exercise any power  
or duty authorized in chapter 316 or in s. 901.15(5).

(3) ~~(2)~~ A youth custody officer must meet the minimum  
qualifications for employment or appointment, be certified as a

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

law enforcement officer under chapter 943, and comply with the requirements for continued employment required by s. 943.135.

The department of ~~Juvenile Justice~~ must comply with the responsibilities provided for an employing agency under s. 943.133 for each youth custody officer.

(4) ~~(3)~~ A youth custody officer shall inform

===== T I T L E A M E N D M E N T =====

Remove line(s) 3-12 and insert:

985.2075, F.S.; providing that youth custody officers may file criminal charges and gather evidence under specified circumstances; providing that youth custody officers have the authority and powers of law enforcement officers, subject to specified exceptions, while in the performance of their duties; requiring youth custody officers to be certified as law enforcement officers; providing an effective date.

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